

Superseded by D1070STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

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In the Matter of Applications 12919A,  
 12920A, 15704, 15736, 15737, 15738, 15739,  
 and 15779 to Appropriate Water from  
 East Fork Russian River and Russian  
 River in Mendocino and Sonoma Counties

Decision No. D 965

Approved 5/16/60

Substance of the Applications

<u>Applicant</u>	<u>Number</u>
Sonoma County Flood Control and Water Conservation District and Mendocino County Russian River Flood Control and Water Conservation Improvement District, as joint applicants	12919A 12920A
Sonoma County Flood Control and Water Conservation District	15736 15737 15779
Mendocino County Flood Control and Water Conservation District	15738 15739
City of Ukiah	15704

Applications 12919 and 12920 were filed on January 28, 1949, by the State Department of Finance to appropriate water from the East Fork Russian River. Portions of these applications were assigned to Sonoma County Flood Control and Water Conservation District (hereinafter referred to as "Sonoma

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TABLE 1

POINTS OF DIRECT DIVERSION AND POINTS OF  
REDIVERSION OF STORED WATER ON RUSSIAN RIVER  
UNDER APPLICATION 12919A

Diversion Point	Location of Diversion Point				
	1/4	1/4	Section	Township	Range
Wohler	NE	SW	29	8N	9W
Mirabel Park	NW	SE	31	8N	9W
Monte Rio	SW	NW	7	7N	10W
Healdsburg	NW	NE	28*	9N	9W
Geyserville Dam	NE	SE	18*	10N	9W
Cloverdale Dam	SE	SE	7*	11N	10W
Asti Dam	SW	SW	27*	11N	10W
Fitch Mt. Dam	NE	NW	23*	9N	9W
Healdsburg Dam	NE	NE	28*	9N	9W
Guerneville Dam	NW	NW	32	8N	10W
Vacation Beach	NE	NW	6	7N	10W
Jenner	SE	NE	13*	7N	12W

\*Projected Section.

Application 12919 as originally filed was for the appropriation of waters of East Fork Russian River only at Coyote Valley Dam site. The points of direct diversion and rediversion as set forth in Table 1 are on the main stem of Russian River below its confluence with the East Fork Russian River and were added by amendment in 1958.

The water is to be used for municipal, industrial,

domestic, and recreational purposes in Russian River Valley of southern Mendocino County from Coyote Valley Reservoir southward to the Mendocino-Sonoma County line; in all of Sonoma County below elevation 500, except for the North Coastal area; and in Marin County when export to that area proves feasible.

Application 12920A as amended is for a permit to appropriate 335 cfs by direct diversion, year-round, and 122,500 afa by storage, year-round, from East Fork Russian River and from Russian River for irrigation and domestic purposes. The points of diversion and rediversion are the same as those described under Application 12919A. The place of use is generally the same as described under Application 12919A, and includes 12,100 irrigable acres within Mendocino County and 133,000 net irrigable acres within a gross irrigable acreage of 203,500 acres in Sonoma County.

Application 15736, filed by Sonoma District on February 18, 1954, is for a permit to appropriate 20 cfs from Russian River year-round for municipal, industrial, and domestic purposes. The points of diversion are at the Geyserville Dam within the NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of projected Section 18, T10N, R9W; Healdsburg Intake within NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected Section 28, T9N, R9W; Wohler Intake within NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 29, T8N, R9W; Mirabel Park Intake within NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 31, T8N, R9W; and Monte Rio Intake within SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 7, T7N, R10W. The place of use will be urban areas within the Sonoma District service area within T3N to 12N, R5W to 10W, inclusive, which includes all of Sonoma County.

Application 15737, filed February 18, 1954, by Sonoma District is for a permit to appropriate 60 cfs from Russian River

between April 1 and September 30 of each year. The points of diversion are the same as those described under Application 15736. Water is to be used for incidental domestic purposes and the irrigation of 203,500 gross irrigable acres within the Sonoma District.

Application 15779, filed by Sonoma District on March 17, 1954, is for a permit to appropriate 125 cfs by direct diversion and 900 afa by storage between May 1 and November 30 of each year for recreational purposes. The points of diversion are at locations described as follows:

<u>Storage dam</u>	<u>Location of Storage Dam</u>					<u>Storage Capacity acre-feet</u>
	<u>1/4</u>	<u>1/4</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	
Vacation Beach	NE	NW	6	7N	10W	48
Guerneville	NW	NW	32	8N	10W	18
Healdsburg	NE	NE	28	9N	9W	102
Fitch Mountain	NE	NW	23	9N	9W	9
Asti	SW	SW	27	11N	10W	18
Cloverdale	SE	SE	7	11N	10W	18
Jenner	SE	NE	13*	7N	12W	-
Total						213

\*Projected section.

Use of water will be for swimming, boating and fishing on the lakes created by the storage dams.

No evidence having been submitted at the hearing in support of Applications 15738 and 15739 filed by Mendocino County Flood Control and Water Conservation District on February 18, 1954, a description of their features is omitted.

Application 15704, filed by City of Ukiah on January 25, 1954, is for a permit to appropriate 20 cfs, year-round, from the underflow of Russian River for municipal purposes. The water is to be pumped from wells located within the SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected Section 17, and SE $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected Section 16, T15N, R12W. Water is to be used within City of Ukiah and environs.

#### Hearing

Applications 12919A, 12920A, 15704, 15736, 15737, 15738, 15739, and 15779 were completed in accordance with the Water Code and applicable administrative rules and regulations. A public hearing under the provisions of the California Administrative Code, Title 23, "Waters", was held before the State Water Rights Board (hereinafter referred to as "the Board") on June 9 and 10, August 18, 19, 20, and 21 at Santa Rosa, California, before Board Members W. P. Rowe (presiding), and Ralph J. McGill, and September 28, 1959, at Sacramento, California, before Board Members Kent Silverthorne, (Chairman), W. P. Rowe, and Ralph J. McGill. The applicants, protestants and other interested parties were duly notified of all sessions of the hearing.

#### Watershed

East Fork Russian River heads in Mendocino County north of Potter Valley, an underground water basin, in T18N, R11W, 15 miles north northeast of the City of Ukiah, and flows in a southerly direction for about 7 miles thence in southwesterly direction for about 7 miles to its junction with Russian River approximately 2 miles north of Ukiah. The river then flows about 9 miles across Ukiah Valley Groundwater Basin (Staff Exh. 7). From

Ukiah Valley the Russian River flows southeasterly about 10 miles through a steep winding gorge and emerges into Hopland Valley Groundwater Basin (Staff Exh. 7) near the town of Hopland. After leaving Hopland Valley the river continues southerly some 25 miles in a canyon section through rough nonagricultural land to Alexander Valley, thence turns west for about 15 miles through the Fitch Mountains to Healdsburg. The River flows in a southerly direction to a point 6 miles south of Healdsburg near Mirabel Park where it turns sharply to the west and courses an airline distance of some 12 miles through the gorge of the Coast Range to the Pacific Ocean at Jenner (Staff Exh. 6).

Coyote Valley Dam and Reservoir are located on the East Fork Russian River about one mile above its junction with the Russian River (Sonoma Dist. Exh. 2). The Russian River Valley as hereinafter referred to includes only those areas of Mendocino and Sonoma Counties in Ukiah Valley, Hopland Valley, Alexander Valley and those areas immediately adjacent to the River upstream from Mirabel Park (p. 40, Appendix V, Sonoma Exh. 4D).

#### Development and Water Supply of Russian River Valley

The Russian River watershed is in an area which receives little rainfall during the summer and fall months and is normally unaffected by snowmelt. The natural runoff from the watershed decreases rapidly after the conclusion of the spring rains and becomes virtually nonexistent during the late summer and fall months (Staff Exh. 5). The mean annual precipitation in the valley lands along the Russian River for the 50-year period 1897 to 1947 varied

from 35.28 inches at Ukiah to 38.94 inches at Healdsburg (Staff Exh. 1).

The first agricultural development in the Russian River Valley began about 1860, grain and hay being produced for local use. Construction of the Northern Pacific Railroad to Ukiah in 1889 provided access to markets and by the turn of the century most of the better agricultural land close to the river had been developed.

In 1906 or 1907 the Snow Mountain Water and Power Company started to divert water from the South Eel River at Van Arsdale diversion dam through a transmountain tunnel to a powerhouse in Potter Valley. After its use to generate power, the water was discharged into the East Fork Russian River. The Pacific Gas and Electric Company acquired the system and, in 1922, constructed Scott Dam on the South Eel River. Diversion of stored water from Lake Pillsbury formed by the dam greatly stabilized and increased the flow of East Fork Russian River. The power company entered into a contract with Potter Valley Irrigation District whereby it agreed to supply 50 cfs to the District at the tailrace of the power plant. In 1950 the capacity of the tunnel for Eel River diversion was increased to about 350 cfs. This factor has further increased the flows to Potter Valley and Russian River. (RT 103). In answer to a letter from Masonite Corporation dated August 13, 1947, the power company stated that it would not enter into further contracts but would abandon all water in excess of its contractual commitments with Potter Valley Irrigation District (Masonite Exh. 6).

During late summer and fall months, the major supply of water in the Russian River is water imported from the South Eel



River as above described. Although inflow to the Russian River drainage system from this source is fairly uniform and dependable, it is subject to daily curtailment or to being shut off entirely, depending upon power plant operations. (Masonite Exh. 6, RT 744).

After this imported water became available, irrigation expanded rapidly and by 1916 about 2,000 acres of hops were being irrigated (RT 444, 471, 472). Irrigation as practiced in the Russian River Valley has expanded steadily until the present time and is dependent to a considerable extent on the importation of Eel River water. In more recent times a wider acceptance of scientific methods has spurred an increase of irrigation and the diversification of crops (Mendocino Exh. 1).

Urban development with related industry has kept pace with the rapidly expanding agricultural economy. The towns of Ukiah, Hopland, Healdsburg, and Cloverdale, to name the larger ones, have developed along with the agricultural economy, likewise depending on the continued availability of Eel River water.

The United States Geological survey operated a gaging station "East Fork Russian River near Ukiah" above the Coyote Valley reservoir site during the periods 1911-13 and 1951-55 prior to construction of the dam. According to the stream flow record at the station, the flow of the East Fork has varied from no flow in August 1913 to a maximum of 13,300 cfs on December 21, 1955. The average flow for the period of record is 328 cfs or 237,500 afa (Staff Exh. 5).

Partial Assignment of Applications 12919 and 12920 and  
Partial Reassignment Thereof to Mendocino County District

On November 14, 1955, pursuant to Sections 10504 and 10505 of the Water Code, the State Department of Finance executed a partial assignment of Applications 12919 and 12920 to the Sonoma County District. The assignment provides, in part, as follows:

"WHEREAS, said Corps of Engineers' report contemplates the serving of irrigation water to Mendocino County to irrigate an additional area of 4,096 acres and to Sonoma County to irrigate an additional area of 8,259 acres under the initial stage of the Coyote Valley Project, which with the estimated average annual irrigation yield of the initial stage of Coyote Valley Project of 24,000 acre-feet would make approximately 8,000 acre-feet per annum available to Mendocino County and approximately 16,000 acre-feet per annum available to Sonoma County; (Emphasis added.)

"WHEREAS, the amounts of 8,000 acre-feet per annum and 16,000 acre-feet per annum are ample to supply the water requirements of the 4,096 acres in Mendocino County and the 8,259 acres in Sonoma County referred to in said Corps of Engineers' report, and the increased amount of water yield from the project due to any reduction in the recreation flow can only be used for beneficial purposes on other lands; and

"WHEREAS, any increase in yield in the initial stage of the Coyote Valley Project over and above that envisioned in the original Corps of Engineers' report should be made available to serve additional land in Sonoma County and for export to Marin County;

"The Department of Finance in consideration of the foregoing and of the general benefits to accrue to the State of California from the construction of the Coyote Valley Project DOES HEREBY TRANSFER, ASSIGN AND SET OVER to the Sonoma County Flood Control and Water Conservation District for the use and benefit of said Coyote Valley Project, that portion of the aforesaid Applications 12919 and 12920 and of such rights and interests in and to the waters of the East Fork Russian River as were acquired thereby and initiated thereunder to the extent

of 335 cubic feet of water per second by direct diversion and 122,500 acre-feet of water per annum for storage under both applications, reserving to itself the remainder of said applications and each of them;

"SUBJECT, in conformity with Section 10505 of the Water Code of the State of California, to any and all rights of any county in which the water sought to be appropriated originates to the extent that any such water may be necessary for the development of lands in such county lying in the watershed above Coyote Valley Reservoir;

"FURTHER SUBJECT TO, and upon condition that, upon payment by such appropriate district in Mendocino County as may be hereafter organized for the purpose, to Sonoma County Flood Control and Water Conservation District of (1) a share of the local contribution to the cost of said project not to exceed \$633,000, and (2) a proportionate share of the interest cost incurred by the Sonoma County Flood Control and Water Conservation District, said Mendocino County District shall be entitled to an amount of project water reasonably required for beneficial use on not to exceed 4,096 acres or such portion thereof as the amount paid under Item (1) above bears to said sum of \$633,000 and that upon such payment Sonoma County Flood Control and Water Conservation District shall reassign to said Mendocino County District an interest in the aforesaid Applications 12919 and 12920 and in such permits and licenses as may be hereafter issued thereon, which interest shall be representative of the aforesaid entitlement of said Mendocino County District to the use of project water; provided that said Mendocino County District be required to financially participate on or before 1990 or before the commencement of construction of the second stage of the Coyote Valley Project, whichever is earlier, and provided further that in the event of financial participation by the Mendocino County District and reassignment to said District as above provided, the use of water covered by all that portion of the applications the subject of this assignment, outside the boundaries of the two counties, shall be permitted only upon the approval of both districts. It is the intent of this provision that, in the event Mendocino County participates in the project, the two counties shall share on an equitable basis,

considering the amounts of surplus water available for such use from Mendocino and Sonoma Counties' respective basic apportionments and the use of facilities in any proceeds that may be realized from such use of water outside the boundaries of the counties.

"FURTHER SUBJECT TO, and upon condition that, in the event of failure of the Sonoma County Flood Control and Water Conservation District to exercise due diligence in the completion of the appropriations of water initiated by the aforesaid Applications 12919 and 12920 to the extent they are hereby assigned, this assignment shall be of no force and effect and the interest in said applications transferred thereby and any and all rights to water or the use of water acquired thereunder, shall revert to the Department of Finance which department shall thereupon forthwith become reinstated in and to said applications and any and all rights hereby conferred upon said district as if this assignment had not been executed; and in like manner and with like effect, in the event of reassignment of an interest in the aforesaid applications to a district hereafter organized in Mendocino County as hereinbefore provided, and subsequent failure of such district to exercise due diligence in the completion of its appropriation of water thereunder, the interest of such district in the aforesaid applications and in appropriations of water thereunder shall revert to the Department of Finance."

On December 20, 1956, the Sonoma County District executed a reassignment of a portion of Applications 12919 and 12920 to Mendocino District. The reassignment provides in part as follows:

"WHEREAS, Mendocino County-Russian River Flood Control and Water Conservation Improvement District organized for the purpose of and as such an appropriate District in Mendocino County has tendered payment therefor to the Sonoma County Flood Control and Water Conservation District of a sum of moneys as required by said document of assignment by the Department of Finance, State of California, dated November 14, 1955, to wit:

- (1) A share of the local contribution of the cost of said Coyote Valley Project in the amount of Six Hundred Thirty-Three Thousand Dollars (\$633,000.00), plus
- (2) A proportionate share of the interest cost incurred by the Sonoma County Flood Control and Water Conservation District, to wit: Thirteen Thousand One Hundred Five and 91/100ths Dollars (\$13,105.91), making a total payment of Six Hundred Forty-Six Thousand One Hundred Five and 91/100ths Dollars (\$646,105.91);

"NOW, THEREFORE, for and in consideration of payment of said sum of Six Hundred Forty-Six Thousand One Hundred Five and 91/100ths Dollars (\$646,105.91) to the Sonoma County Flood Control and Water Conservation District, said District DOES HEREBY TRANSFER, ASSIGN AND SET OVER to the Mendocino County Russian River Flood Control and Water Conservation Improvement District for the use and benefit of said Coyote Valley Project, without warranty, that portion of the aforesaid assignment of Water Rights to the Sonoma County Flood Control and Water Conservation District by the Department of Finance, State of California, dated November 14, 1955, to which said payment entitled said Mendocino County District under the terms and conditions of said assignment dated November 14, 1955, consisting of a proportionate interest as therein provided in the aforesaid partial assignment of Applications 12919 and 12920 and in such permits and licenses as may be hereafter issued thereon which interest shall be representative of the aforesaid entitlement of said Mendocino County District to use of project water.

"Nothing herein contained, or in Coyote Valley Project proceedings heretofore had, shall be construed as an assumption of duty on the part of the Sonoma County Flood Control and Water Conservation District to exercise due diligence in the completion of the appropriations of water initiated by the aforesaid Applications 12919 and 12920 to the extent they are hereby reassigned, or to otherwise perfect, protect or assert the rights, powers, privileges or immunities of Mendocino County or the Mendocino County Russian River Flood Control and Water Conservation Improvement District."

### Anticipated Yield

With Coyote Valley project in operation, a firm yield of 60,000 acre-feet per annum is available from the river. This figure is based on the minimum runoff conditions of 1924, the driest year of record, and the following assumptions: (Sonoma Dist. Exh. 5A)

(a) Flow at Guerneville is to be maintained at not less than 125 cfs (for recreational purposes);

(b) Flow at forks of Russian River and East Fork Russian River is to be maintained at not less than 150 cfs. (Up to 20 per cent deficiency allowable in this flow);

(c) 116,500 acre-feet maximum conservation storage is to be available in Coyote Valley Reservoir (including encroachment on flood control space);

(d) The entire Russian River system is to be operated as a unit, e.g., of the safe yield of 60,000 acre-feet (1924), 45,500 acre-feet are to be supplied from storage and 14,500 acre-feet are to be obtained from stream flow entering the river below Coyote Valley Dam;

(e) Allowances were made for actual uses in Potter Valley and uses in Sonoma and Mendocino Counties below the dam prior to 1948, at the 1948 level, and actual uses for later years;

(f) Pacific Gas and Electric Company tunnel from South Fork Eel River to Potter Valley is at the enlarged capacity of 350 cfs.

It is noted from the yield studies that in the controlling year (1924), 26,800 acre-feet of stored water would have been released during months of little or no natural or foreign flow to maintain the minimum flow at Guerneville of 125 cfs (RT 193) and that for 20 of the 30 years studied releases from storage are required to maintain this flow (Sonoma Dist. Exh. 5A).

#### Stipulations

Potter Valley Irrigation District, the Sonoma District, the Mendocino County Districts\*, and the County of Mendocino stipulated as to uses of water in Potter Valley (Sonoma Dist. Exh. 13, RT. 170). This stipulation in effect recognizes as prior the rights of Potter Valley Irrigation District to the amount of water required to irrigate all lands within the district and future district boundaries wherein the drainage is tributary to the East Fork Russian River upstream from Coyote Valley Dam.

California Department of Fish and Game and the Sonoma District entered into a lengthy stipulation regarding minimum flows for preservation of fish life (Sonoma Dist. Exh. 23). These proposed flows are 150 cfs at the forks of Russian River and East Fork Russian River, 25 cfs between Coyote Valley Dam and the forks, and 125 cfs passing Guerneville. The maintenance of the aforementioned flows is contingent upon and subject to numerous conditions set forth in the stipulation. Due to their relative complexity, it is not deemed appropriate to include the provisions of the stipulation

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\* Mendocino County Russian River Flood Control and Water Conservation Improvement District and Mendocino County Flood Control and Water Conservation District.

in permits to be issued by the Board. It is assumed that the stipulation constitutes a valid agreement between the parties thereto.

A written, unsigned statement was presented at the hearing as Mendocino District Exhibit 3 and was accepted by counsel for both the Mendocino and Sonoma Districts as signifying an agreement between such Districts (RT 764). It provides for releases of inflow to the Coyote Valley Reservoir sufficient to supply beneficial uses under rights vested prior to January 28, 1949, the date of filing of Applications 12919 and 12920, and, subject to reasonable conditions imposed by the Districts, sufficient to supply beneficial uses established as of January 28, 1949, without regard to legal rights. The agreement further provides for release from the reservoir of sufficient project water to supply contract commitments of each District up to the total annual entitlement of each.

It was orally agreed by and between counsel for the Sonoma and Mendocino Districts that the Board should retain continuing jurisdiction until such time as the Districts reach agreement whereby the Mendocino District might obtain additional project water at which time the terms of the agreement would be included in the permits (RT 1021, 1060).

#### Water Requirements and Supply

##### Mendocino County

The ultimate consumptive use water requirement for those portions of Mendocino County below Coyote Valley Dam and susceptible to service from the Russian River is estimated to be 25,300 acre-feet during the irrigation season (Mendocino Dist. Exh. 1). This



figure includes consumptive use of 7,800 acre-feet for municipal and industrial purposes.

The total consumptive use in southern Mendocino County in the Russian River Valley below Coyote Valley Dam prior to 1949 was estimated to be 9,100 acre-feet per annum (RT 680), including the use at that time of the City of Ukiah, Masonite Corporation, and others. This quantity plus the 8,000 acre-feet per annum available from the project is sufficient to supply the total requirements of the lands within Mendocino District until about 1980 at which time a supplemental water supply will have to be acquired (Mendocino District Exh. 1. p.45).

#### Sonoma County

In addition to the irrigation uses as of 1949, there is need for sufficient water to irrigate 8,259 acres in Sonoma County in the Russian River Valley capable of being served from the River (Staff Exh. 2; Sonoma Dist. Exh. 4D, Mendocino Dist. Exh. 1). The consumptive use requirement for this land is estimated to be 16,000 acre-feet per annum (Sonoma Dist. Exh. 4D). The additional yield of 36,000 acre-feet per annum from the project would be available for export from the Russian River Valley to other lands in Sonoma County and to Marin County (Staff Exh. 2).

The probable use of water exported annually from the Russian River Valley to other parts of Sonoma County as envisioned by the Sonoma District is as follows:

Santa Rosa	14,000 acre-feet
Petaluma Area	4,500 acre-feet
Sonoma Area	4,200 acre-feet
Sebastopol Area	2,600 acre-feet
Other Areas in Sonoma County	4,700 acre-feet
	<hr/>
Total	30,000 acre-feet

(Sonoma Dist. Exh. 17)

In addition to the foregoing exports, there will be about 6,000 acre-feet annually available for export to Marin County after all irrigation requirements in the Russian River Valley in Sonoma County have been met.

Another proposed use of water in Sonoma County under Applications 12919A and 15779 is the maintenance of a minimum flow of 125 cfs for recreational purposes between Guerneville and the ocean. The project as originally contemplated by the counties and the U. S. Corps of Engineers included 200 cfs continuous flow for recreational purposes (Sonoma Dist. Exh. 4A, B, C, D). Further study of the stream system and the recreational area indicated that this quantity could be reduced to a minimum of 125 cfs.

The recreational area in Sonoma County has been organized into a zone (Zone 5) for tax purposes to pay for the benefits received (RT 179, 200; Sonoma Dist. Exh. 2; Staff Exh. 2). A substantial portion of the economy of Sonoma County depends on the recreational features of the Russian River (RT 179 and 789 to 795).

#### Project Works

Coyote Valley Reservoir as constructed has a maximum

capacity of 122,500 acre-feet. In operation of the reservoir it is planned to discharge all flood flows through the outlet works if possible. The U. S. Corps of Engineers required a 3-foot freeboard on the spillway. This factor reduces the total allowable storage from 122,500 af to 116,500 af (Sonoma Dist. Exh. 5B). If additional storage space is required by the applicants, flashboards, sandbags or some other device can be installed to prevent wave erosion to the spillway, and the full 122,500 af storage capacity can be utilized (RT 514, 515). Releases for flood control and downstream uses are made through the outlet gates which have a capacity of 6,500 cfs (RT 518).

The Mendocino District has neither constructed diversion works nor has any immediate plans for doing so (RT 748). All of the existing diversion works below Coyote Valley Dam in Mendocino County are owned and operated by private industries, individual farmers, cities and other political entities and this pattern will probably be extended (RT 754, 755).

The Sonoma District has constructed diversion works (Wohler Intake and Santa Rosa Aqueduct) downstream from the dam, and has established a basic policy for the sale of project water.

Wohler Intake, a "Ranney System" consisting of two concrete caissons and radiating collecting pipes, has been constructed near the Wohler Bridge to pump water from the river for export through the Santa Rosa Aqueduct. The capacity of the works is about 30,000,000 gallons per day or 46.5 cfs (RT 313, 314). The system has additional features built into it whereby a maximum diversion of 40,000,000 gallons per day, or 62 cfs, can be made when required

(RT 915, 916). It is expected that 26,700 acre-feet per year will be pumped through this system for use in Sonoma County by the year 1980, plus a possible 10,000 acre-feet per year export to Marin County (RT 915, 916). As previously noted, according to Sonoma District Exhibit 17, export to areas in Sonoma County away from the Russian River Valley will be 30,000 acre-feet per annum.

These quantities plus the 16,000 acre-feet per year required for irrigation of additional lands along the Russian River total 52,700 acre-feet per year or approximately Sonoma District's share of the minimum safe yield of the project as constructed. No other diversion facilities are planned for construction by the Sonoma District as a part of the first stage of the project.

The storage dams for recreational use in Sonoma County under Application 15779 have been in use for years. Some of these dams are permanent while others are temporary and are reconstructed each year (RT 813, 844). The total storage capacity of the reservoirs created by these dams is 213 acre-feet (Staff Exh. 2). Water for recreational purposes will be permitted to flow over, around and through these storage dams and thus maintain a quality of water suitable and safe for swimming and other recreational uses (RT 789, 795).

#### Disposition of Protests

Almost all water in the Russian River and East Fork Russian River during the summer or dry season is either water foreign to the watershed or stored water from the Coyote Valley Project. In these circumstances, any valid right to the use of

water during that season must be appropriative in nature inasmuch as riparian rights do not attach to water foreign to the watershed or to water which has been stored and subsequently released for beneficial use pursuant to an appropriative right.

The Mendocino District includes only areas serviceable by the project and encompasses the City of Ukiah, Willow County Water District, Millview County Water District, and Masonite Corporation, the major protestants in Mendocino County against the Coyote project applications. There are many owners of land overlying the Ukiah Valley, Hopland Valley and other underground water basins who divert water by means of wells but who did not enter protests. Some of the protestants and the City of Ukiah claim municipal preference for their applications for direct diversions from the Russian River which are junior in time. The Board concluded in a previous decision (D935) that applications filed pursuant to Water Code Section 10500 (State filings) are not subordinate to applications for municipal purposes filed subsequent to such State filings. However, water is available to these parties claiming municipal preference as well as other users in southern Mendocino County through the Mendocino District's share of the project water and any action taken by the Board in this decision will reasonably safeguard their future water requirements.

The Masonite Corporation has requested that its existing license issued pursuant to an application filed subsequent to Applications 12919 and 12920 be given a higher priority than the assigned State filings of the applicants and that any permit issued thereon be so conditioned.

The record indicates there is no question as to the adequacy of supply to meet the requirements of the entire southern Mendocino County to at least the year 1980, including those of the Masonite Corporation. The controversy does not concern availability of unappropriated water, but whether Masonite Corporation should be required to pay the Mendocino District for that portion of the water which it diverts and which will be subject to appropriation under the prior State assigned applications. Although the Board may disregard the priority of an application in the public interest, there is no consideration of public interest that would warrant doing so in this instance. It would appear that the protection and relief which the Masonite Corporation seeks to achieve can only be accomplished by reliance on such rights as it may have as an owner of land overlying an underground water basin and as an owner of land riparian to the Russian River.

With the uses of water as of 1949 undisturbed and 125 cfs available for recreational use an additional yield of 52,000 acre-feet per annum will be available from the project to provide to the Sonoma District 16,000 acre-feet to irrigate additional lands along the River and to provide 36,000 acre-feet for export from the Russian River Valley to areas of deficiency in the County and possibly to Marin County.

There is considerable concern of some landowners along the Russian River in Sonoma County as to future availability to them of water from the river and the effect of the Coyote Valley project thereon. This Board cannot determine the individual rights of these users in these proceedings, but can protect them by conditioning

permits issued pursuant to the applications so as to reserve 20,000 acre-feet per annum (pre-1949 uses) and that portion of the yield necessary for their development subsequent to 1949, namely, 16,000 acre-feet. In fairness to the Sonoma District some time limit must be placed on the water users for this reservation for post-1949 development along the river. Permits so conditioned will reasonably safeguard the Russian River water users in Sonoma County and still not be detrimental to the project as contemplated.

The protest of the California Department of Fish and Game will be satisfied inasmuch as fish life will be adequately safeguarded by the operation of the project as contemplated. The Sonoma District proposes to release sufficient water to maintain a continuous flow of 150 cfs at the East and West Forks of Russian River as well as 125 cfs at Guerneville for recreational purposes and will use the natural stream channel for conveyance of stored water between the dam and the Wohler Intake. These flows at times will be substantially more than the amount available under pre-project conditions, and in years similar to 1924 would include about 26,800 acre-feet from storage to make up the deficiencies in the 125 cfs flow past Guerneville to the ocean.

#### Disposition of the Applications

Applications 12919A and 12920A of the Sonoma and Mendocino Districts should be approved only to the extent that the applicants can take the water under control and place it to beneficial use as described hereinafter.

There is no question that the full 122,500 acre-feet requested in the application can be impounded. The 70,000 acre-feet

conservation space of the reservoir has been divided between the two districts in proportion to the amount contributed to the construction of the project. Mendocino District paid for and received 8,000 acre-feet of conservation space or 11.3 per cent and Sonoma District paid for 62,000 acre-feet of conservation space or 88.7 per cent. Although there is no natural or artificial flow in the river at Guerneville during the dry season in years similar to 1924, assuming 1949 uses, there are years when flow is available for direct diversion in addition to the storage. Therefore direct diversion and rediversion at Wohler Intake should be allowed to the capacity of the proposed diversion works of the applicants.

The evidence indicates that the only point of diversion or rediversion from the channel of Russian River for the first stage of the Coyote Valley Project will be the Wohler Intake with a capacity of about 62 cfs (RT 313, 314, and 915, 916, Sonoma Exh. 17) which is of sufficient size to deliver the contemplated yield of the project insofar as export of water from the Russian River Valley is concerned. The Board's rules prohibit approval of an application for an amount clearly in excess of the capacity of the diversion works (Sec. 656). Limiting the direct diversion pursuant to these applications to 62 cfs at Wohler Intake will not interfere with the project as contemplated by the districts or decrease the minimum safe yield therefrom. The unassigned portions of Applications 12919 and 12920 of 215 cfs direct diversion and 77,500 afa storage will be available if at some future date permittees or others require additional water.

The evidence presented indicates that 125 cfs continuous



flow at Guerneville is the minimum amount required to maintain recreational facilities (RT 794). The Board finds that the furnishing of water by the Sonoma District along this reach of the Russian River for uses common to resorts or other recreational establishments such as boating, swimming, fishing, etc., is a reasonable beneficial use and the flow therefrom into the ocean is not an unreasonable waste. See Water Code Section 1243; City of Elsinore v. Temescal Water Co., 36 Cal. App. 2d 116, 97 P. 2d 274; 23 Cal. Adm. Code 667.

To the extent the Sonoma District proposes to "appropriate" 125 cfs by simply allowing that amount of the flow in the river to remain undisturbed for the benefit of recreational facilities, the applications cannot be approved. An essential element of a valid appropriation of water is physical control, akin to possession. Physical control is usually exercised by diverting water from its natural channel, although it may also consist in artificial regulation of natural flow within the channel itself.

The U. S. Corps of Engineers in its original study of the Coyote Valley Project (House Document 585, 81st Congress, 2nd Session) contemplated the maintenance of a minimum flow of 200 cfs at Guerneville to meet recreational requirements. The project was also intended to provide water for irrigation of 4,096 acres of additional land in Mendocino County and 8,259 acres of additional land in Sonoma County. With the estimated average annual irrigation yield of the initial stage of the project of 24,000 acre-feet per annum over and above the uses of water being made prior to 1949, approximately 8,000 acre-feet per annum would be available to

Mendocino County and approximately 16,000 acre-feet per annum would be available to Sonoma County.

Later studies by the Corps of Engineers (Sonoma District Exhibit 5a) revealed that only 125 cfs at Guerneville is required to meet recreational requirements and therefore the average irrigation yield from releases from storage under the initial stage of the project would be 45,500 acre-feet per annum.

The State Department of Finance in its assignment of portions of Applications 12919 and 12920 to the Sonoma District contemplated that the increase in the yield of the project over that envisioned in the original Corps of Engineers' report should be available for export to Marin County and to serve lands in Sonoma County in addition to the 8,259 acres referred to in the original report. The assignment did not specifically reserve water to the extent of the pre-1949 uses in the Russian River Valley. However, there is no question that these uses were intended to be satisfied before water was to be exported to distant lands. Furthermore, the applicants have recognized the priority of present and future uses in Potter Valley (Sonoma Dist. Exh. 13). To fail to protect those uses would be contrary to the public interest in view of the substantial economy which has been developed in the Russian River Valley in reliance on a continued water supply. It is, therefore, the intent of the Board to reserve to the area in the Russian River Valley water for Potter Valley uses, plus pre-1949 uses plus the quantities required for growth subsequent to 1949 as set forth in the assignment, namely, 8,000 acre-feet for Mendocino County and 16,000 acre-feet for Sonoma

County. Permits issued pursuant to these applications will be so conditioned. In making such a reservation, the Board does not purport to recognize as valid all uses of water which were being made prior to 1949.

Based on the foregoing, permits issued pursuant to Applications 12919A and 12920A should be conditioned to make available 17,100 acre-feet for southern Mendocino County (9,100 acre-feet for pre-1949 uses and 8,000 acre-feet share of project) and 36,000 acre-feet for Sonoma County areas in the Valley (20,000 acre-feet pre-1949 uses and 16,000 acre-feet for future expansion) (Sonoma District Exh. 8).

There is no plan to export water from the Russian River Valley in Mendocino County. Permits issued should contain a condition whereby exportation of water from the Russian River Valley is subject to depletion by consumptive use of 17,100 acre-feet per annum within the service area of the Mendocino District. This would adequately protect the water users in that area.

Concern was expressed by the Mendocino District that the total amount of water made available might not be sufficient. Both Districts have asked the Board to retain jurisdiction until such time as an agreement can be reached whereby the Mendocino District can acquire a greater portion of the project and/or a share of the water available above the minimum safe yield (RT 1019-1027). The evidence justifies such a request, and the permits will be so conditioned.

In order to satisfy the future needs of the areas in Sonoma County in the Russian River Valley and in fairness to the

Sonoma District, a reasonable time limit should be placed on the purchase or contract for purchase of 16,000 acre-feet per annum from the project. Therefore, permits issued pursuant to the applications will be conditioned whereby exportation of water from the Russian River Valley is subject to depletion by consumptive use within the Valley in Sonoma County of 20,000 acre-feet per annum and such additional quantity, not to exceed 16,000 acre-feet per annum, as shall be placed to beneficial use by December 31, 1970.

Applications 12919A and 12920A as originally filed and advertised described Coyote Valley Dam as the only point of direct diversion and diversion to storage, thus limiting the water to be appropriated to that flowing in the East Fork. The applications were subsequently amended in 1958 to add twelve points of diversion, including Wohler Intake, on the main stem of Russian River.

These changes, if permitted without suitable conditions, would allow diversion of water of both the East Fork and all other tributaries above the respective points of diversion and would, to that extent, constitute a new appropriation with at best a 1958 priority. The applicants were so advised soon after the amendments were submitted and were informed that it would be to their interest to rely upon Applications 15736 and 15737 with priority of 1954 for any right they might desire to acquire to divert water from sources other than the East Fork.

However, it is true that designation of Coyote Valley Dam as the point of direct diversion in the original and amended applications was and is fictitious, since no diversion of water

from the natural channel of the river was or is proposed at that point. Instead, it has always been intended to allow water not impounded by the dam to continue to flow uninterrupted down the channel of the river to be diverted at so-called points of "redirection". The only such point that was described in the original Applications 12919A and 12920A was the Wohler Intake.

The proper course to follow at this time is to authorize appropriation under permits issued pursuant to Applications 12919A and 12920A of not to exceed 62 cfs by direct diversion at the Wohler Intake, but limited to water contributed to the Russian River by flow from the East Fork. This will give the Sonoma District the advantage of the 1949 priority to the extent water is available from the source filed upon at that time at the point of actual diversion, and will avoid the improper designation of the Coyote Valley Dam as the point of diversion of water which is not impounded or otherwise regulated by the dam. The practical problem of segregating East Fork water from other water at the Wohler Intake will be no greater than it would be if the permit specified the Coyote Valley Dam as the point of diversion and the Wohler Intake as the point of redirection.

Applications 15736 and 15737 of Sonoma County Flood Control and Water Conservation District should be approved inasmuch as they may be needed to meet the direct diversion requirements at Wohler Intake when water is not available from East Fork Russian River. However, the record clearly demonstrates that Sonoma District's share of the yield of the Coyote Valley project under Applications 12919A and 12920A should meet its requirements for many years to

come and it would not be in the public interest to allow the Sonoma District under Applications 15736 and 15737 to interfere with development within the watershed. Therefore, these applications should be approved subject to appropriation by others for use within the watershed, either by prior or subsequent appropriators.

Application 15704 of City of Ukiah should be approved subject to the rights of the Districts of the two counties under permits issued on Applications 12919A and 12920A. The City is within Mendocino District and as such will share in Mendocino's 8,000 acre-feet annual yield of the project. However, as the Mendocino District has no immediate plan for constructing diversion facilities for delivering water to its consumers and no points of diversion or redirection in Mendocino County other than Coyote Dam are included in Applications 12919A and 12920A, it is proper and necessary for the City to proceed under its own application insofar as its use of water is not already covered under a valid right.

Applications 15738 and 15739 of Mendocino County Flood Control and Water Conservation District should be denied inasmuch as no evidence in their support was presented by the applicant.

Application 15779 of the Sonoma District should be approved in part. The storage features should be approved in sufficient quantities to fill all reservoirs which, according to the record, total 213 acre-feet. All other quantities should be denied inasmuch as the waters sought are either covered under prior applications of the District or cannot be physically taken under control by the District.

### Conclusions

The evidence indicates and the Board finds that unappropriated water exists in East Fork Russian River and Russian River at times and in sufficient amounts to justify approval in part of Applications 12919A and 12920A of Sonoma County Flood Control and Water Conservation District and Mendocino County Russian River Flood Control and Water Conservation Improvement District, portions of Applications 15736, 15737 and 15779 of Sonoma County Flood Control and Water Conservation District, and Application 15704 of City of Ukiah; that the applicants have substantially completed construction of a major portion of the projects and started delivery of water; that such waters in general but subject to certain conditions may be taken and used as proposed without interference with the exercise of prior rights; and that those applications should be approved and permits issued pursuant thereto, subject to the terms and conditions set forth in the following order. The Board finds that as so conditioned the developments proposed in such applications will best develop, conserve and utilize in the public interest the water sought to be appropriated.

The evidence indicates and the Board further finds that Applications 15738 and 15739 of Mendocino County Flood Control and Water Conservation District should be denied for reasons heretofore set forth.

## ORDER

Applications 12919A and 12920A of Sonoma County Flood Control and Water Conservation District and Mendocino County Russian River Flood Control and Water Conservation Improvement District; Application 15704 of City of Ukiah; Applications 15736, 15737 and 15779 of Sonoma County Flood Control and Water Conservation District; and Applications 15738 and 15739 of Mendocino County Flood Control and Water Conservation District for permits to appropriate unappropriated water having been filed with the former Division of Water Resources, protests having been filed, jurisdiction of the administration of water rights including the subject applications having been subsequently transferred to the State Water Rights Board, a public hearing having been held by the Board, and the Board having considered all of the evidence received at said hearing and now being fully informed in the premises:

IT IS HEREBY ORDERED that Applications 12919A and 12920A of Sonoma County Flood Control and Water Conservation District and Mendocino County Russian River Flood Control and Water Conservation Improvement District be and the same are approved in part and that permits be issued to the applicants subject to vested rights and to the following terms and conditions:

1. The amount of water to be appropriated under permit issued pursuant to Application 12919A shall be limited to the amount which can be beneficially used and shall not exceed 62 cubic feet per second by direct diversion of water from East Fork Russian River to be diverted at the Wohler Intake from January 1 to



December 31 and 122,500 acre-feet per annum to be collected at Coyote Valley Dam between January 1 and December 31 of each year.

2. The amount of water to be appropriated under permit issued pursuant to Application 12920A shall be limited to the amount which can be beneficially used and shall not exceed 62 cubic feet per second by direct diversion of water from East Fork Russian River to be diverted at the Wohler Intake from January 1 to December 31, and 122,500 acre-feet per annum to be collected at Coyote Valley Dam between January 1 to December 31 of each year.

3. The total amount of water to be appropriated under these permits shall not exceed 62 cubic feet per second by direct diversion and 122,500 acre-feet per annum by storage.

4. The total amount of water to be appropriated by direct diversion under these permits and permits issued pursuant to Applications 15736 and 15737 shall not exceed 62 cubic feet per second.

5. The right to export water from the Russian River Valley under these permits shall be subject to depletion by consumptive use of 17,100 acre-feet per annum in the service area of Mendocino County Russian River Flood Control and Water Conservation Improvement District.

6. The right to export water from the Russian River Valley under these permits shall be subject to depletion by consumptive use within the valley in Sonoma County of 20,000 acre-feet per annum and such additional quantity not to exceed 16,000 acre-feet per annum as shall be placed to beneficial use by December 31, 1970.

7. The maximum amount herein stated may in license be reduced if investigation warrants.

8. Construction work shall be completed on or before December 1, 1975.

9. Complete application of the water to the proposed use shall be made on or before December 1, 1985.

10. Progress reports shall be filed promptly by permittee on forms to be provided annually by the State Water Rights Board until license is issued.

11. The State Water Rights Board retains continuing jurisdiction for the purpose of conforming these permits to any agreement between Sonoma County Flood Control and Water Conservation District and Mendocino County Russian River Flood Control and Water Conservation Improvement District whereby the Mendocino District will have an opportunity to acquire a greater portion of the Coyote Valley Project and/or a share of any additional water above the minimum safe yield thereof, or upon failure to reach said agreement, as may be ordered by a court of competent jurisdiction.

12. In accordance with Water Code Section 1393 permittees shall clear Coyote Valley Reservoir and any other reservoir with a capacity of 50 acre-feet or more, of all structures, trees, and vegetation which will interfere with the use of the reservoir for water storage and recreational purposes.

13. These permits are subject to compliance with Water Code Section 10504.5.

14. These permits are subject to beneficial use in Potter Valley whether under prior or subsequent rights and to any and all rights of any county in which the water appropriated hereunder originates to the extent that any such water may be necessary for the development of lands in such county.

15. These permits are subject to that stipulation between permittees and Potter Valley Irrigation District dated August 18, 1959, and filed of record as Sonoma District Exhibit 13 at the hearing of Application 12919A and others.

16. All rights and privileges under these permits including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

Insofar as Applications 12919A and 12920A are for direct diversion in excess of 62 cfs, the same are hereby denied.

IT IS FURTHER ORDERED that Applications 15736 and 15737 of Sonoma County Flood Control and Water Conservation District be, and the same are, approved and that permits be issued to the applicant subject to vested rights and to the following terms and conditions:

1. The amount of water to be appropriated under permit issued pursuant to Application 15736 shall be limited to the amount which can be beneficially used and shall not exceed 20 cubic feet per second to be diverted at the Wohler Intake between January 1 and December 31 of each year.

2. The amount of water to be appropriated under permit issued pursuant to Application 15737 shall be limited to the amount which can be beneficially used and shall not exceed 60 cubic feet per second, to be diverted at the Wohler Intake between April 1 and September 30 of each year.

3. The total amount of water to be appropriated by direct diversion under permits issued pursuant to Applications 12919A, 12920A, 15736 and 15737 shall not exceed 62 cubic feet per second.

4. The maximum amount herein stated may in license be reduced if investigation warrants.

5. Construction work shall be completed on or before December 1, 1975.

6. Complete application of the water to the proposed use shall be made on or before December 1, 1985.

7. Progress reports shall be filed promptly by permittee on forms to be provided annually by the State Water Rights Board until license is issued.

8. These permits are subject to appropriations by others for use within the watershed, either by prior or subsequent applications.

9. All rights and privileges under these permits including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

IT IS FURTHER ORDERED that Application 15704 of City of Ukiah be and the same is approved and that a permit be issued to the applicant subject to vested rights and to the following terms and conditions:

1. The amount of water to be appropriated under this permit shall be limited to the amount which can be beneficially used and shall not exceed 20 cubic feet per second to be diverted from January 1 to December 31 of each year.

2. The maximum amount herein stated may be reduced in the license if investigation warrants.

3. Complete application of the water to the proposed use shall be made on or before December 1, 1985.

4. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

5. This permit shall be subject to any rights acquired pursuant to permits issued on Applications 12919A and 12920A.

6. All rights and privileges under this permit including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

IT IS FURTHER ORDERED that Application 15779 of Sonoma County Flood Control and Water Conservation District be and the same is approved in part and that a permit be issued to the applicant subject to vested rights and to the following terms and conditions:

1. The amount of water to be appropriated under this permit shall be limited to the amount which can be beneficially used and shall not exceed 213 acre-feet per annum to be diverted between about May 1 and about November 30 of each year.

2. The maximum amount herein stated may be reduced in the license if investigation warrants.

3. Complete application of the water to the proposed use shall be made on or before December 1, 1963.

4. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

5. All rights and privileges under this permit including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

6. In accordance with Water Code Section 1393 permittee shall clear the site of all reservoirs with a capacity of 50 acre-feet or more of all structures, trees and vegetation which would interfere with the use of the reservoir for water storage and recreational purposes.

That portion of Application 15779 for appropriation of 125 cubic feet per second by direct diversion and all water in excess of 213 acre-feet per annum by storage is hereby denied.

IT IS FURTHER ORDERED that Applications 15738 and 15739 of Mendocino County Flood Control and Water Conservation District be and the same are hereby denied.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on this 16th day of May, 1960.

Kent Silverthorne, Chairman

W. P. Rowe, Member

Ralph J. McGill, Member